



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JULIET L. REZNACK, JOY CONNOLLY,
KULBIR GHAI, individually, and on behalf of
all others similarly situated,

Plaintiffs,

v.

CITY OF SAN DIEGO; and DOES 1 through 200,
inclusive,

Defendants.

CASE NO: 01CV1075 L(CGA)

NOTICE OF PROPOSED
SETTLEMENT AND FAIRNESS
HEARING

NOTICE TO CLASS MEMBERS OF PROPOSED SETTLEMENT
AND FAIRNESS HEARING

The Court has approved sending you this Notice to inform persons who claim they paid more than once for the same parking citation issued by the City of San Diego ("the City") between March 1, 1998, and June 30, 2001, that a tentative settlement has been reached in a class action lawsuit seeking refunds of those alleged overpayments. If this settlement is approved, and you paid more than once for a parking citation issued by the City between March 1, 1998, and June 30, 2001, the settlement will affect your rights. **Please read this notice carefully.**

I. HISTORY OF THIS LITIGATION AND NATURE OF THE CLAIMS

On May 2, 2001, plaintiff Juliet L. Reznack, on behalf of herself and on behalf of all

1 others similarly situated, filed a claim with the City, alleging that the City had engaged in a
2 practice of improperly collecting more than once for the same parking violation through a variety
3 of means. The claim was denied by the City.

4 On June 15, 2001, the plaintiffs Juliet L. Reznack, Joy Connolly, Kulbir Ghai,
5 individually, and on behalf of all others similarly situated, filed this lawsuit, again alleging that
6 the City had engaged in a practice of improperly collecting more than once for the same parking
7 violation through a variety of means. The plaintiffs filed both the claim and the lawsuit on
8 behalf of themselves and on behalf of all others similarly situated, who the plaintiffs alleged had
9 been overcharged by the City for parking violations. The plaintiffs sought certification as a class
10 action.

11 On December 11, 2001, the plaintiffs filed their second amended complaint. The
12 plaintiffs claimed they were entitled to recover on theories of (1) violation of federally-protected
13 rights; (2) violations of the California Vehicle Code; (3) violations of the California Revenue and
14 Taxation Code; (4) moneys had and received; and (5) unjust enrichment. The plaintiffs also
15 sought a writ of mandate pursuant to California Code of Civil Procedure section 1085. Again,
16 the plaintiffs sought class certification.

17 On January 18, 2002, the City filed its answer to the plaintiffs' second amended
18 complaint, and denied that it had engaged in any unlawful practices and asserted various
19 affirmative defenses.

20 During the pendency of this litigation, the City conducted an internal audit of its parking
21 management division and of its parking ticket collection practices. The City's audit concluded
22 that there have, in fact, been instances of double collections for the same otherwise valid parking
23 violations. The City's audit has concluded that refunds in the total amount of \$516,588.55 are
24 due. These are called "Audit Refunds." The City has also implemented procedures which
25 should prevent any future double collections. The plaintiffs and Class Counsel have reviewed
26 the City's audit and revised procedures and are generally satisfied that prevention of these
27 collection practices will be accomplished in the future.

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II. COUNSEL INVOLVED IN THIS LAWSUIT

Counsel for the Class are:

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Counsel for the City of San Diego are:

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Mark Stiffler, Deputy
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III. EVENTS LEADING TO THIS PROPOSED SETTLEMENT

Class Counsel, representing the plaintiffs who brought this case and all those who overpaid for parking citations between March 1, 1998 and June 30, 2001, recognize the substantial monetary benefit to the Settlement Class and the expenses and length of continued proceedings necessary to prosecute this lawsuit against the City through class certification, trial and through possible appeals. Class Counsel has also taken into account the uncertain outcome and risk of any litigation, especially in complex actions such as class actions, as well as the difficulties and delay inherent in such litigation. Therefore, Class Counsel has determined that

1 the settlement set forth in this Stipulation of Settlement is in the best interests of the Settlement
2 Class.

3 The City and its counsel have similarly concluded that it is desirable that this lawsuit be
4 settled in a manner and upon such terms and conditions set forth herein in order to avoid the
5 further expense, inconvenience and distraction of further legal proceedings, and the risk of the
6 outcome of this lawsuit. Therefore, the City has determined that it is desirable and beneficial to
7 put to rest the claims in the lawsuit.

8 **IV. DESCRIPTION OF THE PROPOSED SETTLEMENT**

9 The basic terms of the settlement are as follows:

10 1. The City agrees to pay Audit Refunds to persons who have overpaid parking
11 tickets pursuant to the findings of the internal audit it conducted during the pendency of this
12 action. Audit Refunds will be paid by the City automatically, without the necessity of any
13 Claim being made. The total amount of the Audit Refunds will be \$516,588.55, and the exact
14 amount of each Audit Refund will be determined after deductions for attorneys' fees, costs, and
15 payments to the three class representatives, as described below. To determine whether you are
16 to receive an Audit Refund, please check the Audit Refund List on the City's website at
17 www.sandiego.gov. If you are on the Audit Refund List, you will be automatically mailed a
18 refund if the settlement is approved.

19 2. If you believe that you have paid more than once for a parking citation issued by
20 the City between March 1, 1998 and June 30, 2001, but are not on the Audit Refund List, you
21 can make a claim for your refund by submitting a Proof of Claim Form. Proof of Claim Forms
22 can be obtained on the City's website at www.sandiego.gov. If you make a claim, it must be
23 submitted on a Proof of Claim Form no later than July 12, 2002, and include any supporting
24 documentation available. Claim Forms and supporting documentation, if any, are to be mailed to
25 Michael A. Conger, P.O. Box 9374, Rancho Santa Fe, CA 92067, one of the Class Counsel
26 attorneys listed above and on the Proof of Claim Form. Only Claim Forms actually received by
27 July 12, 2002, or bearing a postmark of July 12, 2002, or before, will be considered.

28 If you have any other damages related to the City's collection more than once for the

1| same parking citation, between April 1, 1998, and June 30, 2001, please contact one of the Class
2| Counsel attorneys (Mr. Conger, Mr. Miller or Ms. Letizia) listed above in order to discuss how
3| to proceed.

4| 3. Proof of Claim Forms and supporting documentation which are received |
5| postmarked July 12, 2002, or before, will be considered for a Claim Refund. To be a valid |
6| Claim Refund, a claimant must demonstrate an overpayment for a parking citation between |
7| March 1, 1998 and June 30, 2001, with evidence demonstrating the amount overpaid.

8| 4. No person receiving a refund, whether an Audit Refund or a Claim Refund, will
9| have to pay attorneys' fees or costs directly. However, Class Counsel will petition the court to |
10| be compensated for reasonable attorneys' fees not to exceed 25% of the total of all Audit
11| Refunds and Claims Refunds paid (called the "Settlement Fund"). Additionally, Class Counsel |
12| will request a reimbursement, to be paid from the Settlement Fund, of costs actually expended in
13| pursuing this litigation for the benefit of the class. |

14| 5. Two of the three Class Representatives, Joy Connolly and Kulbir Ghai, will |
15| request a payment of \$500, to be paid from the Settlement Fund, as reimbursement for the time,
16| expense, and risks associated with bringing this lawsuit. Class Representative Juliet L. Reznack
17| did not participate in the litigation and is not entitled to any such payment. |

18| 6. | In the event a Class Member receives either an Audit Refund or a Claim Refund, |
19| the City agrees to request that the Credit Bureau Agency remove any derogatory information the
20| City has reported to any Credit Bureau Agency related to the overpaid citation(s), provided that
21| the affected Class Member, who receives either an Audit Refund or a Claim Refund, mails a
22| request to have such derogatory information removed to Mark Stiffler, Deputy City Attorney, at
23| the address listed above, postmarked no later than December 31, 2002. |

24| 7. Any Class Member wishing to opt out of this settlement and the Action may do so |
25| by notifying any of the three Class Counsel attorneys, in writing, no later than July 12, 2002.

26| 8. Unless a Class Member timely opts out of this lawsuit, the Class Member agrees
27| to release any and all claims against the City resulting from overpaid parking citations issued |
28| between March 1, 1998, and June 30, 2001

1 | **V. THE SETTLEMENT HEARING AND OPTIONS OF CLASS MEMBERS**

2 | You have the right to be excluded from the class and from this lawsuit, if you desire, by
3 | notifying any one of the three Class Counsel attorneys, in writing, on or before July 12, 2002. If
4 | you do not elect to opt out of this litigation, and the settlement is approved by the Court, you will
5 | be bound by the settlement.

6 | If you object to any of the terms of this proposed settlement, you must prepare a written
7 | objection, serve it by mail on the each of the attorneys involved in this case, and file it with the
8 | Court. Your written objection should include the following: (i) a statement of your objection(s),
9 | including specific reasons, if any, for each objection; (ii) any legal support you wish to bring to
10 | the Court's attention and any evidence you wish to introduce in support of your objection(s); (iii)
11 | your full name, address, and telephone number; and (iv) the name of the case and the case
12 | number appearing on the first page of this Notice. Any objections must be filed with the Court
13 | and served on each of the attorneys involved in this case no later than July 12, 2002.

14 | **VI. YOUR RIGHT TO APPEAR AT THE FAIRNESS HEARING**

15 | As a Class member, you may appear and be heard at the Fairness hearing, scheduled for
16 | August 12, 2002, at 10:30 a.m., at 940 Front Street, Department 11, San Diego, CA 92101, either
17 | in person or through an attorney paid by you, in order to object to any aspect of the proposed
18 | settlement.

19 | **VII. IF YOU NEED ADDITIONAL INFORMATION**

20 | This Notice has summarized the proposed settlement. The full proposed settlement is set
21 | forth in a more detailed legal document, which has been referred to as the Stipulation of
22 | Settlement. This document, as well as the remainder of the papers filed and exchanged in this
23 | lawsuit, are available for your review during normal business hours. If you wish to examine any
24 | of these documents, please contact Class Counsel listed above. In addition, if you have any
25 | questions or comments regarding this proposed settlement, please contact Class Counsel at the
26 | addresses or telephone numbers listed above.

27 | The pleadings and all of the records of this litigation may be examined and copied at any
28 | time during regular office hours of the Clerk of the Court, United States District Court for the

Southern District of California, 880 Front Street, Suite 4290, San Diego, California 92101

**IF YOU HAVE QUESTIONS OR COMMENTS, DO NOT CALL OR WRITE TO
THE COURT OR THE CLERK OF THE COURT. PLEASE ADDRESS ALL
INQUIRIES IN WRITING TO CLASS COUNSEL, WHOSE CONTACT
INFORMATION APPEARS ABOVE.**

Date: May 30, 2002


HON. M. JAMES LORENZ
Judge of the U.S. District Court